

SENATE AMENDMENTS

2nd Printing

By: Hancock

H.B. No. 2564

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a governmental body to require the payment of a charge before complying with certain requests for the production of public information or for copies of public information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter F, Chapter 552, Government Code, is amended by adding Section 552.275 to read as follows:

Sec. 552.275. REQUESTS THAT REQUIRE LARGE AMOUNTS OF EMPLOYEE OR PERSONNEL TIME. (a) A governmental body may establish a reasonable limit on the amount of time that personnel of the governmental body are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time.

(b) A time limit established under Subsection (a) may not be less than 36 hours for a requestor during the 12-month period that corresponds to the fiscal year of the governmental body.

(c) In determining whether a time limit established under Subsection (a) applies, any time spent complying with a request for public information submitted in the name of a minor, as defined by Section 101.003(a), Family Code, is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other

1 person who has control of the minor under a court order and with
2 whom the minor resides, unless that parent, guardian, or other
3 person establishes that another person submitted that request in
4 the name of the minor.

5 (d) If a governmental body establishes a time limit under
6 Subsection (a), each time the governmental body complies with a
7 request for public information, the governmental body shall provide
8 the requestor with a written statement of the amount of personnel
9 time spent complying with that request and the cumulative amount of
10 time spent complying with requests for public information from that
11 requestor during the applicable 12-month period. The amount of
12 time spent preparing the written statement may not be included in
13 the amount of time included in the statement provided to the
14 requestor under this subsection.

15 (e) If in connection with a request for public information,
16 the cumulative amount of personnel time spent complying with
17 requests for public information from the same requestor equals or
18 exceeds the limit established by the governmental body under
19 Subsection (a), the governmental body shall provide the requestor
20 with a written estimate of the total cost, including materials,
21 personnel time, and overhead expenses, necessary to comply with the
22 request. The written estimate must be provided to the requestor on
23 or before the 10th day after the date on which the public
24 information was requested.

25 (f) If the governmental body determines that additional
26 time is required to prepare the written estimate under Subsection
27 (e) and provides the requestor with a written statement of that

1 determination, the governmental body must provide the written
2 statement under that subsection as soon as practicable, but on or
3 before the 10th day after the date the governmental body provided
4 the statement under this subsection.

5 (g) If a governmental body provides a requestor with the
6 written statement under Subsection (e), the governmental body is
7 not required to produce public information for inspection or
8 duplication or to provide copies of public information in response
9 to the requestor's request unless on or before the 10th day after
10 the date the governmental body provided the written statement under
11 that subsection, the requestor submits a statement in writing to
12 the governmental body in which the requestor commits to pay the
13 lesser of:

14 (1) the actual costs incurred in complying with the
15 requestor's request, including the cost of materials and personnel
16 time and overhead; or

17 (2) the amount stated in the written statement
18 provided under Subsection (e).

19 (h) If the requestor fails or refuses to submit the written
20 statement under Subsection (g), the requestor is considered to have
21 withdrawn the requestor's pending request for public information.

22 (i) This section does not prohibit a governmental body from
23 providing a copy of public information without charge or at a
24 reduced rate under Section 552.267 or from waiving a charge for
25 providing a copy of public information under that section.

26 (j) This section does not apply if:

27 (1) the requestor is a faculty member of an accredited

1 institution of higher education or a teacher at an accredited
2 public or private elementary or secondary school and asserts that
3 the public information is requested for academic purposes; or

4 (2) the requestor is a student at an accredited
5 institution of higher education or an accredited public or private
6 elementary or secondary school and provides a letter or other
7 writing from a faculty member at the institution or teacher at the
8 school stating that the public information is requested by the
9 student for academic purposes.

10 (k) This section does not apply if the requestor is a
11 representative of:

12 (1) a radio or television station that holds a license
13 issued by the Federal Communications Commission; or

14 (2) a newspaper that is qualified under Section
15 2051.044 to publish legal notices or is a free newspaper of general
16 circulation and that is published at least once a week and available
17 and of interest to the general public in connection with the
18 dissemination of news.

19 (l) This section does not apply if the requestor is an
20 elected official of the United States, this state, or a political
21 subdivision of this state.

22 (m) This section does not apply if the requestor is a
23 representative of an organization that is exempt from federal
24 income taxation under Section 501(a), Internal Revenue Code of
25 1986, as amended, by being listed as an exempt entity under Section
26 501(c)(3) of that code.

27 SECTION 2. Section 552.275, Government Code, as added by

1 this Act, applies only to a request for public information under
2 Chapter 552 of that code that is submitted to a governmental body in
3 a fiscal year of that governmental body that begins on or after the
4 effective date of this Act.

5 SECTION 3. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2007.

ADOPTED

MAY 22 2007

FLOOR AMENDMENT NO. 2

Atty. Gen.
Secretary of the Senate

BY:

Natanson

1 Amend H.B. 2564 as follows:

2 In SECTION 1 of the bill, in Section 552.275, Government
3 Code, (page 2, line 4) insert the following sentence after the
4 sentence ending in "requested":

5 The amount of this charge relating to the cost of locating,
6 compiling, and producing the public information shall be
7 established by rules prescribed by the attorney general under
8 Section 552.262 (a) and (b).

ADOPTED

MAY 22 2007

Latoy Law
Secretary of the Senate

COMMITTEE AMENDMENT NO. 3

BY: *Lucas*

1 Amend H.B. 2564 in SECTION 1 of the bill, in added Section
2 552.275(m), Government Code (house engrossed version, page 4,
3 line 23) by striking "an" and inserting "a publicly funded legal
4 services".

ADOPTED

MAY 22 2007

Kathy Spaw
Secretary of the Senate

COMMITTEE AMENDMENT NO. 2

BY: *Lucio*

1 Amend H.B. No. 2564 in SECTION 1 of the bill, by striking
2 proposed Subsection (j), Section 552.275, Government Code (house
3 engrossed version, page 3, line 26, through page 4, line 9), and
4 relettering subsequent proposed subsections accordingly.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 18, 2007

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2564 by Hancock (Relating to the authority of a governmental body to require the payment of a charge before complying with certain requests for the production of public information or for copies of public information.), **Committee Report 2nd House, As Amended**

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|-----------------------------------------------------------------------|
| No significant fiscal implication to the State is anticipated. |
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The bill would amend Chapter 552 of the Government Code by adding section 552.275. Section 552.275 would allow a governmental body to set a time limit for the amount of time it would spend copying or providing information for inspection at no charge. The time limit may not be less than 36 hours for one requestor during one fiscal year. Section 552.275 would require that, each time a governmental body complies with a request without charging for personnel time, it must provide the requestor with a statement showing the number of personnel hours spent complying with the request, and the cumulative amount spent during the applicable fiscal year.

If in connection with a request, the cumulative amount of personnel time spent complying with requests from the same requestor were to reach the limit set by the governmental body, the governmental body would be authorized to charge the requestor for the cost of complying with the request (including materials, personnel time, overhead). The governmental body would then be required to provide the requestor with a cost estimate within 10 business days of when the request was received. If the governmental body needs more time, it could send the requestor notice explaining that it needs up to an additional 10 business days to provide the cost estimate.

Once the requestor receives the estimate, the requestor must respond within 10 business days by agreeing to pay the lesser of (1) the actual costs incurred, or (2) the amount estimated. If the requestor does not respond within 10 business days, the request is considered withdrawn.

In addition, section 552.275 states that it is not meant to prohibit a governmental body from providing information at no cost or at a reduced rate or from waiving a charge. In addition, the bill includes certain requestors to which the provisions of the bill would not apply.

The bill would apply only to public information requests submitted in a fiscal year that begins on or after the effective date of the bill, which would be September 1, 2007.

According to the Office of Attorney General (OAG), the proposed legislation may result in changes to the OAG's Public Information Coordinator Division's procedures for charging requestors, and would therefore initially create some additional work for the Public Information Coordinator. As it cannot be anticipated if or how often there would be situations that implicate Section 552.275, and in which the requestor decides to submit payment as a result, the OAG's Public Information Coordinator Division is unable to determine/quantify any additional general revenue to the OAG. If section 552.275 results in any additional general revenue to the OAG, the Public Information Coordinator Division believes that it would be minimal.

In addition, the OAG anticipates any additional work resulting from the passage of the bill could be reasonably absorbed with current resources.

Local Government Impact

The fiscal impact to local governmental entities would vary depending on the number of requests that fit the criteria of the bill. The local governments contacted estimate that the fiscal impact would not be significant.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, KJG, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 16, 2007

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2564** by Hancock (Relating to the authority of a governmental body to require the payment of a charge before complying with certain requests for the production of public information or for copies of public information.), **As Engrossed**

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LBB Staff: JOB, KJG, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 20, 2007

TO: Honorable David Swinford, Chair, House Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2564 by Hancock (Relating to the authority of a governmental body to require the payment of a charge before complying with certain requests for the production of public information or for copies of public information.), **As Introduced**

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